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SUBJECT: KUWAIT: SEVENTH ANNUAL ANTI-TRAFFICKING IN PERSONS
REPORT

REF: STATE 202745

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¶1. (U) Embassy Kuwait's submission for the 2007 Trafficking
in Persons Report (TIP) follows. Responses are keyed to
paragraphs 27-30 of reftel.

OVERVIEW

¶2. (SBU) Please find below responses to questions in
paragraph 27 of reftel:

-- 27A: Kuwait is a destination country for internationally
trafficked men and women and possibly a small number of
children. No reliable numbers were available for the numbers
of victims. There is trafficking in persons into the country
as well as some within the country's borders. There is no
trafficking in areas outside of GOK control. The GOK keeps
reliable records on the number of foreign workers in country.
Source countries also try to keep track of the numbers of
their citizens in Kuwait but their numbers are less reliable.
Many of Kuwait's expatriate workers complain of violations
of their rights as workers, though most of these cases do not
meet the definition of trafficking in persons: "trafficked
through force, fraud, or coercion into domestic servitude,
commercial sexual exploitation, forced or bonded labor,
coerced sweatshop labor, forced marriage, or other slave-like
conditions." Neither the GOK nor any of the source-country
embassies separate out statistics of simple labor violations
from those of trafficking. Therefore it is impossible to
determine numbers of trafficking victims. There are some
indications that the GOK might begin work on an
anti-trafficking law. Such a law would codify trafficking as
a discrete phenomenon, which might lead to more reliable
information about the number of victims. Those most commonly
subjected to labor exploitation are adult female domestic
workers. Men and women working in low-skilled sectors such
as janitorial services are also victims of exploitation, some
of which might be characterized as trafficking. Despite
occasional reports of child labor problems among
third-country nationals and Bidoons (stateless residents)
source country embassies do not report this as being a

notable problem. There does not seem to be a specific bias against people of any one nationality or ethnicity. However, migrants from countries with disproportionately uneducated workforces tend to suffer more.

-- 27B: Trafficking in persons remains an issue in Kuwait. Source country embassies and NGOs do not report major changes in the level of trafficking-related activities as compared to the previous year. In the past year the GOK took two major steps to improve the trafficking situation: it implemented a new contract that set minimum standards for domestic workers and it launched an awareness program for domestic workers and their employers (referred to as "sponsors" in Kuwait). The Government also carried out a campaign against brothels where foreign men and women work, many of whom are suspected of being former domestic workers.

High-level Kuwaiti officials, including ministers, have expressed to the Ambassador and other Embassy Officers their willingness to improve the situation for foreign workers and to undertake projects such as building a shelter to protect victims. However, progress in implementing reforms in the labor sector has been slow.

Trafficking for labor purposes is more common than sex trafficking. Workers face a number of problems that occasionally make them susceptible to becoming victims of human trafficking. The most common problems are non-payment of salaries and withholding of passports. Some domestic workers face the additional problems of restriction of movement, unsuitable living conditions, and abuse. Another problem is "visa trading" or "residence permit trading," in which sponsors profit by selling their sponsorship to

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workers. In many cases workers pay very high fees to recruiters (sometimes in Kuwait but often in their own countries) for the right to procure a job in Kuwait. Some of these workers arrive in the country to find that the job they were promised does not exist. Many others know full well that no job exists, but come anyway in the hopes of finding a job when they arrive. These people often end up paying another person annually to sponsor them so they can remain in Kuwait. Even those who find jobs sometimes find it difficult to repay the debts they incur. Workers facing these types of problems are put in the difficult position of either accepting unfavorable work conditions or returning home to debts they have little chance of paying. There are credible reports of people promising runaway domestic workers well-paid restaurant jobs and non-domestic work visas, but then coercing the workers into prostitution. The GOK asserts that cases of actual coercion are rare, and that most of the women apprehended made conscious choices to work as prostitutes. Discerning how many cases involve actual coercion is very difficult. Domestic labor recruitment offices, small businessmen, and individuals are the most common traffickers. Government officials enable sponsors to procure permission to sponsor foreign workers, though there is no evidence to suggest that there is widespread government complicity in the kinds of visa and residence-permit trading described above. The GOK and the media often report that Bangladeshi individuals and gangs are organizing the prostitution rings, though there is not solid evidence to support that claim. The Bangladeshi embassy reports that most of its citizens are simply fall guys who are arrested and deported while the real organizers go free. The GOK does in fact deport most of those it arrests in its frequent raids on brothels, so it is difficult to determine who is truly behind the prostitution. The GOK has made a limited number of arrests of low-level government employees (both Kuwaiti and non-Kuwaiti) who have misused their positions to facilitate the selling of visas and residence permits.

-- 27C: The Government of Kuwait does not lack financial resources to tackle TIP. On the other hand, the fact that most of the problems are among domestic workers makes

enforcement difficult: in Kuwaiti culture, the home is a very private place and it is therefore difficult to regulate this sector. Kuwaiti officials note that the expatriate labor community's size (67% of the population), diversity (over 100 nationalities), and low educational profile make combating TIP difficult. Major legal changes would have to go through parliament and enacting legislation is a difficult process that takes a great deal of time. Corruption is a problem, and there are credible allegations that work visas are illegally sold to brokers. Workers who enter the country via such schemes would be especially vulnerable to exploitation.

-- 27D: The Government of Kuwait monitors its immigration patterns in general. It also publishes statistics regularly on the enforcement of many different labor laws and regulations through the Office of Labor Affairs at the Ministry of Social Affairs and Labor (MOSAL).

PREVENTION

13. (SBU) Please find below responses to questions in paragraph 28 of reftel:

-- 28A: The GOK recognizes that labor exploitation occurs, but the prevalence of foreign workers in the private sector and domestic labor market can overwhelm official enforcement measures. The GOK defines trafficking more narrowly than the USG: it considers trafficking to be a systemic phenomenon, whereas it views the situation in Kuwait as consisting of isolated, individual cases of workers whose rights were abused. The GOK acknowledges that some workers face difficulties, but it questions whether that constitutes a systemic problem and points to the fact that the vast majority of foreign workers come to Kuwait and remain voluntarily in order to take advantage of higher wages and

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better work conditions than in their home countries. The general view of relevant GOK officials is that a few publicized, extreme cases of worker abuse have maligned the entire labor system.

-- 28B: There is a four-party interagency committee to deal with issues of foreign workers: The Ministry of Social Affairs and Labor (MOSAL), the Ministry of Interior, the Ministry of Municipality Affairs, and the Ministry of Commerce. MOSAL has the lead.

-- 28C: During the year, the Ministry of Awqaf and Islamic Affairs began serious work on its National Project for the Enlightenment of Domestic Workers, nicknamed "Barirah" after one of the Prophet Muhammad's wife's female servants. The project carried out studies of domestic workers, domestic labor recruitment agencies, and domestic labor employers and held several town-hall-like meetings to gather information about the problems employers and workers face. The results of these studies are being used for a campaign to improve employer-employee relations through brochures, media outreach and public meetings. Although the project identified a number of areas in which domestic workers need more information, the organizers intend to focus on employers, since their mistreatment of workers is the primary cause of problems. The project began its preparatory work in 2006 and is targeting 2007 to begin its public efforts. It is a serious, well-thought-out program with a dedicated staff, some creative ideas, and a sufficient budget. However, it is too early to tell how effective it will be.

-- 28D: The country does not support other programs to prevent trafficking.

-- 28E: There are few NGOs or other organizations that deal with trafficking-related issues, but those that exist work without Government interference. The Government has in the

past actively cooperated with the Kuwait Union of Domestic Labor Offices (KUDLO) to make progress for a shelter for domestic workers. Internal KUDLO problems hindered progress on the shelter, however. GOK officials have mentioned that they still see a role for KUDLO in such a shelter. Embassies have become the de facto shelters for domestic laborers. The Government of Kuwait does not create any difficulties for embassies that wish to provide services to domestic laborers, though the legal basis for embassies to provide shelter is not clear.

-- 28F: The GOK monitors immigration and emigration statistics, though not specifically for trafficking. MOSAL has imposed administrative punishments on companies that appear to be abusing their privilege to import workers. The Ministry of Interior's (MOI) Domestic Workers Administration (DWA) has plans to use evidence of suspicious immigration and emigration patterns to clamp down on those who may be involved in trafficking, though Post expects this will achieve only limited results. The GOK affirms that domestic workers entering Kuwait are picked up at the airport by the agency that recruited them. This prevents workers from being scooped up by parties who might wish to profit from trafficking them.

-- 28G: The GOK has a high-level, governmental working committee to look into issues facing expatriate laborers. The Ministry of Social Affairs and Labor heads the committee and is designated as the main point of contact. Domestic workers are regulated by the Ministry of Interior. MOSAL regulates all other foreign workers.

-- 28H: The government does not have a national plan of action to address trafficking in persons.

INVESTIGATION AND PROSECUTION OF TRAFFICKERS

14. (SBU) Please find below responses to questions in paragraph 29 of reftel:

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-- 29A: Kuwait does not have a law specifically prohibiting trafficking. A highly-placed GOK source told Post that the government had officially approved a GCC-wide anti-TIP model law at the December 2006 GCC summit, though Post has not been able to confirm this. This model law would not be enforceable in Kuwait but would presumably serve as a model upon which Kuwait could base its own law. Kuwait's approval of this model law could be a preliminary step towards a full-fledged anti-TIP law. There are several laws specifically addressing trafficking in persons issues, providing a legal framework for effectively stopping TIP:

- * Kuwaiti criminal law criminalizes kidnapping, detention, and slave trading, with penalties as severe as life imprisonment.

- * Article 31 of the constitution protects against restriction of movement, torture, or "degrading" treatment.

- * Article 42 explicitly prohibits forced labor.

- * Law 16 of 1960 criminalizes forced labor or exploitation as well as maltreatment of all kinds toward individuals. If the maltreatment amounts to torture and leads to death, it is considered first degree murder. In addition, sexual crimes can lead to execution. Incitement of (sexual) immorality can result in up to seven years' imprisonment.

- * MOSAL decree 105 of 1994 forbids forced labor.

- * Ministerial decree 149 of 2004 forbids underage employment in dangerous industries.

- * Ministerial decree 152 of 2004 forbids the use of camel jockeys younger than 18 years.

-- 29B: Kuwait does not have a law specifically prohibiting trafficking.

-- 29C: Please see 29A. Practices such as withholding passports and late payment or nonpayment of salaries are illegal. In practice the Government's basic approach to complaints regarding these practices is to try to rectify the wrong rather than to impose punishments. When MOSAL or the MOI gets involved, it is usually to return the withheld passport or to compel the employer to pay the salary due to the worker. MOSAL even requires companies to leave a deposit with the ministry in case workers bring justified complaints of non-payment. MOSAL has used these funds occasionally for payment of salaries and has also put administrative blocks on companies: it assigns them "code 71," which means the companies have to shut down operations because of their violations of work and residence permit regulations. Source country embassies report that workers who asked for their passports were sometimes threatened with the loss of their jobs. No fines or jail terms have been meted out for withholding documents or not paying salaries. The Ministry of Justice (MOJ) reports 12 cases where people were forced to pay criminal fines for recruiting workers and then not providing them work and that no one was imprisoned for such crimes. The MOJ reports that 5 jail sentences and 15 fines were imposed on people who "facilitated the attainment by a foreigner of a residence permit in exchange for a sum of money."

-- 29D: The maximum penalty for rape is death.

-- 29E: Prostitution is illegal, as are the activities of pimps, clients, brothel owners and those who facilitate or encourage prostitution, with prison sentences up to seven years depending on level of involvement and the age of the sex workers. In 2005, 25 people were imprisoned and 148 were fined for facilitation of prostitution.

-- 29F: Please see 29C. Also note that the GOK does not keep statistics specifically on the topic of trafficking. It therefore has to gather statistics from various agencies, and it is difficult to keep track of crimes that have a trafficking element. Because of the difficulty of gathering quantitative data, Post is actively pursuing qualitative evidence of trafficking prosecutions and will relay any results found in a subsequent cable.

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-- 29G: Trafficking in Kuwait is not organized on a large scale and there is no evidence of local or international criminal syndicate involvement. There are many small agencies that hire out domestic workers, and they vary in the effectiveness with which they help their clients in case of problems. Some are involved in scams to shuttle workers from employer to employer. Though multiple and varied sources have reported such scams, Post cannot provide reliable numbers on the scope of this problem. Well-established companies have a disincentive to engage in the process since it victimizes sponsors monetarily in addition to employees. Post therefore estimates that the practice is carried out by small-time operators and individuals and is not particularly widespread. Domestic labor agencies are regulated by the Government. MOSAL has closed down many domestic labor offices for violations (MOSAL, not MOI, has the authority to close them down because all businesses are licensed through MOSAL), though the head of the Domestic Workers Administration said that these violations were technicalities, and not TIP-related. In contrast to what Post reported last year, the prime culprits in the visa- and residence-permit selling scams described above (e.g. item 27B) are small companies and individuals. Medium-sized and larger companies have too much to lose if they get caught engaging in visa scams and the GOK shuts them down with "code 71" (see 29C). Though the existence of "visa trading" is clearly a problem, the fact that larger companies have been deterred from it demonstrates that MOSAL enforcement efforts are meeting with some success. There are anecdotal reports

that individuals in source-country embassies have been illicitly acting as employment brokers for their constituents and funneling them into unfavorable work conditions. Such reports have been fewer this year than in the past.

-- 29H: The Government has carried out numerous raids of "billiard halls," entertainment establishments that sometimes illegally employ women who have run away from bad labor situations and have few other options for legitimate work. There have been numerous closures of houses of prostitution and the arrest/deportation of alleged pimps. Highly-placed officials in the MOI's Criminal Investigation Department (CID) report that they have used anonymous tipoffs and undercover techniques to make some of their brothel busts.

-- 29I: The Government does not, as far as Post knows, provide any specific training on TIP.

-- 29J: The Government does not, as far as Post knows, cooperate with other governments in prosecuting TIP cases.

-- 29K: Legally, the GOK will extradite its citizens if a reciprocal extradition treaty exists. In practice, few Kuwaiti citizens have been extradited for the commission of any type of crime outside of Kuwait. Foreign nationals are more likely to be extradited to stand trial for crimes committed outside of Kuwait. Post does not know of any extraditions for TIP-related crimes.

-- 29L: There is no evidence of Government involvement in or tolerance of trafficking, on a local or institutional level. As mentioned above, Government officials often make it easy for citizens or foreigners to import workers in exchange for political loyalty or occasionally bribes. The workers brought in are generally slated for the private sector and are less likely to be trafficked than domestic workers. When trafficking occurs, it is perpetrated by the recipients of the Government permits, rather than by the Government agents themselves. The Government involvement is therefore extremely indirect.

-- 29M: A number of Government employees (some citizens and some foreigners) have been arrested for taking bribes in exchange for granting work and residence permits as well as for forgery of such permits. Figures on the sentences received are not available. The Government has begun improvements in its interagency communications and computer systems to make such crimes more difficult to execute.

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-- 29N: N/A.

-- 29O:

- * ILO Convention 182: August 15, 2000 (ratified)
- * ILO Convention 29: September 23, 1968 (ratified)
- * ILO Convention 105: September 21, 1961 (ratified)
- * The Optional Protocol to the Convention on the Rights of the Child: August 26, 2004 (accession)
- * The Protocol to Prevent, Suppress and Punish Trafficking in Persons: April 4, 2006 (ratified) (Note: this is new since last year's report.

PROTECTION AND ASSISTANCE TO VICTIMS:

15. (SBU) Please find below responses to questions in paragraph 30 of reftel:

-- 30A: The Government does not operate a shelter. Shelter and legal services are provided by the source-country embassies. A Kuwaiti-run shelter is being discussed by the inter-agency committee on foreign workers affairs. The Domestic Workers Administration intervenes to try to negotiate amicable solutions to the legal complaints (such as

non-payment of wages) of domestic workers. All foreign workers in Kuwait have access to very inexpensive health care.

-- 30B: The Government does not fund any NGOs that provide services to trafficking victims. It licensed KUDLO, which has provided legal services to a number of domestic workers facing legal problems or abuse. The Government has also coordinated with KUDLO about its being involved in operating a domestic workers shelter. Thus far no shelter has been established and the nature of KUDLO's involvement is still undetermined.

-- 30C: There is no formal screening and referral process.

-- 30D: The record on respect for victims' rights is mixed. There are cases where police either do not take possible victims' complaints seriously or treat them as criminals. Some foreigners who may be trafficking victims are deported. In other cases, possible victims' complaints are taken seriously by the police. Numerous observers, including victims' advocates, note that the courts generally treat victims fairly, though the slowness of the court system works against victims. Source country embassies report that sponsors sometimes file absconding cases against domestic workers or absentee cases against non-domestic workers to try to counter the cases workers file. According to Kuwaiti law, these absconding or absentee cases are invalid if the reason for the worker running away was a violation of his/her rights. However, in practice, the sponsors are sometimes successful in filing their cases and having victims deported (deportation of victims for non-violent crime is the norm; prosecution and fines are rare).

-- 30E: Post is not aware of efforts to encourage victims to assist in investigations. Victims can and do file suits against those who violate their legal rights. These cases are often settled out of court, though Post has documented cases of the courts ruling in favor of victims and awarding compensation. While victims may find it hard to access courts and other procedures due to language and knowledge barriers, there is no one actively trying to impede their access. Workers may change employers, though there are restrictions on moving between certain categories of employment, and most workers cannot switch employers during the first 6 - 12 months of arrival in Kuwait. If an employer violates the labor contract, the employee may file a case to be released from the contract and find another job. In practice, pursuing court cases against sponsors is difficult because the courts are slow and because it is difficult for workers to stay in the country while pursuing a case against their former employer.

-- 30F: The GOK does not provide any particular protection

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for witnesses. The de facto system of shelter in Kuwait is that source-country embassies provide legal and material assistance. The Government of Kuwait does not interfere with the embassies' work.

-- 30G: The Government does not provide any specialized training related to trafficking. The Government has required its embassies in foreign countries to interview domestic laborers before coming to Kuwait to be sure that they have signed government-approved contracts that assure the workers' basic rights. The embassies began carrying out these interviews, though the Kuwaiti embassy in Indonesia eventually stopped because of practical difficulties.

-- 30H: N/A.

-- 30I: No international organizations or NGOs work with trafficking victims directly. The United Nations Development Program and the International Organization for Migration operate in Kuwait and follow trafficking issues closely. They frequently press the GOK to make improvements and work

to influence public policy rather than helping individual victims. They enjoy a good working relationship with the GOK, which provides the UNDP with operating funds.

¶6. (SBU) The Embassy Kuwait point of contact on TIP issues is Democracy and Human Rights Officer Mark Rosenshiel (e-mail: RosenshielMS@state.gov, phone: 965 259-1690, fax: 965 259-1051). Mark Rosenshiel spends approximately 45% of his time on TIP issues. Post management, including the Ambassador, DCM, and Political Counselor are also deeply involved in TIP report issues.

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